

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 04-0336P**

**Income Tax**

**Calendar Year 2000**

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**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

II. **Tax Administration** - Interest

**Authority:** IC 6-8.1-10-1

The taxpayer protests the interest assessment.

**STATEMENT OF FACTS**

The negligence penalty and interest were assessed on the filing of an individual income tax return for the calendar year 2000.

The taxpayer is an individual residing in Indiana.

I. **Tax Administration** – Penalty

**DISCUSSION**

The taxpayer requests the penalty be waived as (1) the error was the result of a reasonable assumption by the taxpayer that the State of Indiana would recognize gambling losses since the Federal government recognizes gambling losses, and (2) the error was not the result of willful intent.

45 IAC 15-11-2(b) states, “Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer’s carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was ignorant of tax regulations. As ignorance is negligence and subject to penalty, the Department finds the penalty proper and denies the penalty protest.

### **FINDING**

The taxpayer’s penalty protest is denied.

#### **II. Tax Administration – Interest**

Interest may not be waived according to statute. IC 6-8.1-10-1.